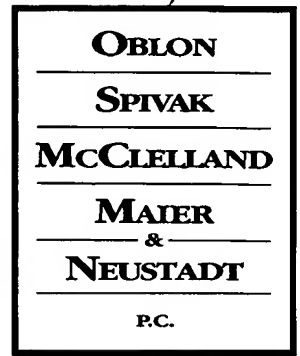




Docket No.: 243863US3DIV



COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

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RE: Application Serial No.: 10/684,503
Applicants: Hitoshi SAKAMOTO, et al.
Filing Date: October 15, 2003
For: METHODS AND APPARATUS FOR THE
FORMATION OF A METAL FILM
Group Art Unit: 1763
Examiner: BUEKER, RICHARD R

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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DOCKET NO: 243863US3DIV



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

RE APPLICATION OF :
HITOSHI SAKAMOTO, ET AL. : EXAMINER: BUEKER, RICHARD R
SERIAL NO: 10/684,503 :
FILED: OCTOBER 15, 2003 : GROUP ART UNIT: 1763
FOR: METHODS AND APPARATUS FOR :
THE FORMATION OF A METAL FILM

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement stated in the Official Action dated October 5, 2005, Applicants provisionally elect Group (Invention) I, Claims 11 and 20, drawn to an apparatus, classified in Class 118, Subclass 722.

Applicants respectfully traverse the outstanding Restriction Requirement for several reasons.

First, the outstanding Office Action concludes that Inventions I, II and III are distinct each from the other under MPEP §§806.04, 808.01 by asserting that "[t]he invention of Group I has the special technical feature of a gas reacting with a hot filament without requiring generation of plasma of the gas," that "[t]he invention of Group II has the special technical feature of a bubbler and plasma generator with no halogenation or etching reaction whatsoever," and that "[t]he invention of Group III has the special technical feature of running gas through a heated spiral tube and reacting therewith without requiring generation of plasma." However, without further information, such findings are believed to lack

sufficient grounds upon which it can be evaluated whether in fact the proposed modes of operation are “unrelated” under MPEP §§806.04, 808.01. Accordingly, it is respectfully submitted that the PTO has not carried its burden of proof to establish distinctness.

Furthermore, MPEP §803 states the following:

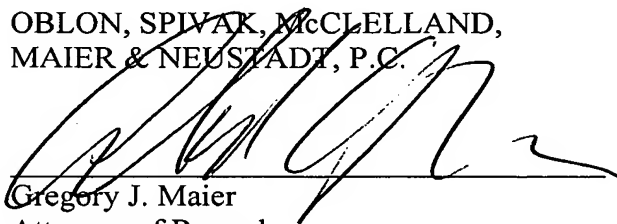
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application, Claims 11-13, 20 and 33-35 are all directed to apparatus for the formation of a metal film. Hence, it appears that these claims according to the present invention are part of an overlapping search area and that a search for Claims 11 and 20 would necessarily include a search directed to Claims 12, 13 and 33-35 as well. It is therefore believed that there is no undue burden on the Examiner to search all the claims under MPEP §803, and Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 11-13, 20 and 33-35 be conducted.

Respectfully submitted,

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